

052004

15362 U.S. PTO

PTO/SB/19 (04-04)

Approved for use through 07/31/2006. OMB 0651-0032

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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PLANT PATENT APPLICATION TRANSMITTAL

(Only for new nonprovisional applications filed under 37 CFR 1.53(b))

Attorney Docket No.

HSIND 1.1

First Named Inventor

Jeffrey A. Westendorp

Title

Hosta plant named 'Independence'

Express Mail Label No.

ADDRESS TO:

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

APPLICATION ELEMENTS

See MPEP chapters 600 & 1600 concerning plant patent application contents.

1. ☒ Fee Transmittal Form (e.g., PTO/SB/17)
(Submit an original, and a duplicate for fee processing)
2. ☒ Applicant claims small entity status. See 37 CFR 1.27.
3. ☒ Specification [Total Pages seven]
(preferred arrangement set forth below)
 - Descriptive title of the invention
 - Cross References to Related Applications
 - Statement Regarding Fed sponsored R & D
 - Latin name of genus and species
 - Variety denomination
 - Background of the Invention
 - Brief Description of the Drawings
 - Detailed Botanical Description
 - A single claim
 - Abstract of the Disclosure
4. ☒ Color drawing(s) [Total Sheets two]
(2 copies required - 37 CFR 1.165(b))
5. Oath or Declaration [Total Pages two]
 - a. ☒ Newly executed (original or copy)
 - b. ☐ Copy from a prior application (37 CFR 1.63(d))
(for continuation/divisional with Box 16 completed)
 - ☐ **DELETION OF INVENTOR(S)**
Signed statement attached deleting inventor(s) named in the prior application, see 37 CFR 1.63(d)(2) and 1.33(b).
6. ☐ Application Data Sheet. See 37 CFR 1.76.

ACCOMPANYING APPLICATION PARTS

7. ☐ Assignment Papers (cover sheet & document(s))
 8. ☐ 37 CFR 3.73(b) Statement (when there is an assignee) ☐ Power of Attorney
 9. ☐ English Translation Document (if applicable)
 10. ☐ Information Disclosure Statement (IDS)/PTO-1449 ☐ Copies of IDS Citations
 11. ☐ Preliminary Amendment
 12. ☐ Return Receipt Postcard (MPEP 503)
(Should be specifically itemized)
 13. ☐ Certified Copy of Priority Document(s)
(if foreign priority is claimed)
 14. ☐ Request Nonpublication under 35 U.S.C. 122 (b)(2)(B)(i). Applicant must attach form PTO/SB/35 or its equivalent.
 15. ☐ Other:
- Note: Please state the Latin name and variety denomination of the plant claimed in a separate section of the specification.

16. If a **CONTINUING APPLICATION**, check appropriate box, and supply the requisite information below and in the first sentence of the specification following the title, or in an Application Data Sheet under 37 CFR 1.76.

☐ Continuation ☐ Divisional ☐ Continuation-in-part (CIP) of prior application No.: _____

Prior application information: Examiner _____

Art Unit: _____

For CONTINUATION or DIVISIONAL APPS only: The entire disclosure of the prior application, from which an oath or declaration is supplied under Box 5b, is considered a part of the disclosure of the accompanying continuation or divisional application and is hereby incorporated by reference. The incorporation can only be relied upon when a portion has been inadvertently omitted from the submitted application parts.

17. CORRESPONDENCE ADDRESS

☐ Customer Number: _____ OR ☒ Correspondence address below

Name	Jeffrey A. Westendorp				
Address	Walters Gardens Inc., 1992-96th Ave., P.O. Box 137				
City	Zeeland	State	MI	Zip Code	49464-0137
COUNTRY	USA	Telephone	616-772-4697	Fax	616-772-5803

Name (Print/Type)	Jeffrey A. Westendorp	Registration No. (Attorney/Agent)	-
Signature	<i>Jeffrey A. Westendorp</i>	Date	5-20-04

This collection of information is required by 37 CFR 1.53(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

15364 U.S. PTO
10/849720

052004

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FEE TRANSMITTAL for FY 2004

Effective 10/01/2003. Patent fees are subject to annual revision.

☒ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT

(\$)265.⁰⁰

Complete if Known

Application Number

Filing Date

First Named Inventor

Jeffrey A. Westendorp

Examiner Name

Art Unit

Attorney Docket No.

HSIND 1.1

METHOD OF PAYMENT (check all that apply)

☐ Check ☐ Credit card ☐ Money Order ☐ Other ☐ None

☐ Deposit Account:

Deposit
Account
Number
Deposit
Account
Name

The Director is authorized to: (check all that apply)

☐ Charge fee(s) indicated below ☐ Credit any overpayments

☐ Charge any additional fee(s) or any underpayment of fee(s)

☐ Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.

FEE CALCULATION

1. BASIC FILING FEE

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1001	770	2001	385	Utility filing fee	
1002	340	2002	170	Design filing fee	
1003	530	2003	265	Plant filing fee	<u>265</u>
1004	770	2004	385	Reissue filing fee	
1005	160	2005	80	Provisional filing fee	

SUBTOTAL (1) (\$)265

2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

		Extra Claims		Fee from below		Fee Paid
Total Claims	<input type="text"/>	-20** =	<input type="text"/>	X	<input type="text"/>	<input type="text"/>
Independent Claims	<input type="text"/>	- 3** =	<input type="text"/>	X	<input type="text"/>	<input type="text"/>
Multiple Dependent					<input type="text"/>	<input type="text"/>

Large Entity		Small Entity		Fee Description
Fee Code	Fee (\$)	Fee Code	Fee (\$)	
1202	18	2202	9	Claims in excess of 20
1201	86	2201	43	Independent claims in excess of 3
1203	290	2203	145	Multiple dependent claim, if not paid
1204	86	2204	43	** Reissue independent claims over original patent
1205	18	2205	9	** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2)

(\$)-

**or number previously paid, if greater; For Reissues, see above

FEE CALCULATION (continued)

3. ADDITIONAL FEES

Large Entity Small Entity

Fee Code	Fee (\$)	Fee Code	Fee (\$)	Fee Description	Fee Paid
1051	130	2051	65	Surcharge - late filing fee or oath	
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet	
1053	130	1053	130	Non-English specification	
1812	2,520	1812	2,520	For filing a request for <i>ex parte</i> reexamination	
1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action	
1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner action	
1251	110	2251	55	Extension for reply within first month	
1252	420	2252	210	Extension for reply within second month	
1253	950	2253	475	Extension for reply within third month	
1254	1,480	2254	740	Extension for reply within fourth month	
1255	2,010	2255	1,005	Extension for reply within fifth month	
1401	330	2401	165	Notice of Appeal	
1402	330	2402	165	Filing a brief in support of an appeal	
1403	290	2403	145	Request for oral hearing	
1451	1,510	1451	1,510	Petition to institute a public use proceeding	
1452	110	2452	55	Petition to revive - unavoidable	
1453	1,330	2453	665	Petition to revive - unintentional	
1501	1,330	2501	665	Utility issue fee (or reissue)	
1502	480	2502	240	Design issue fee	
1503	640	2503	320	Plant issue fee	
1460	130	1460	130	Petitions to the Commissioner	
1807	50	1807	50	Processing fee under 37 CFR 1.17(q)	
1806	180	1806	180	Submission of Information Disclosure Stmt	
8021	40	8021	40	Recording each patent assignment per property (times number of properties)	
1809	770	2809	385	Filing a submission after final rejection (37 CFR 1.129(a))	
1810	770	2810	385	For each additional invention to be examined (37 CFR 1.129(b))	
1801	770	2801	385	Request for Continued Examination (RCE)	
1802	900	1802	900	Request for expedited examination of a design application	

Other fee (specify)

*Reduced by Basic Filing Fee Paid

SUBTOTAL (3)

(\$)-

SUBMITTED BY

Name (Print/Type)

Jeffrey A. Westendorp

Registration No.

-

Telephone

616-772-4697

Signature

[Signature]

Date

5-20-04

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

This collection of information is required by 37 CFR 1.17 and 1.27. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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Certificate of Express Mailing under 37 CFR 1.10

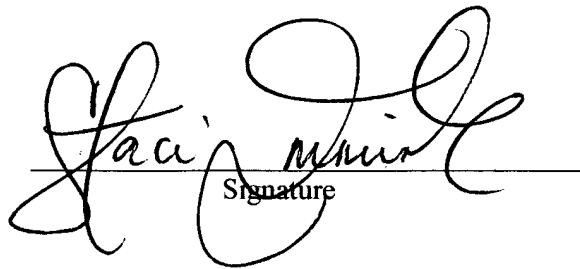
I hereby certify that this correspondence for the new plant patent application entitled *Hosta* plant named 'Independence':

1. Plant Patent Application Transmittal form PTO/SB/19 (2 copies)
2. Fee Transmittal for FY 2004 form PTO/SB/17 (2 copies)
3. Plant Patent Application Declaration form PTO/SB/03 two pages (2 copies)
4. Specification for new plant patent application with one claim and abstract totaling seven pages (2 copies)
5. Two drawing sheets of invention (2 copies each, four pages total)
6. Check for total payment of small entity Plant filing fee in the amount of \$265
7. Cover letter claiming small entity status
8. Return postcard
9. Certificate of Express Mail Deposit

is being deposited in an envelope in the United States Postal Services with sufficient postage as Express Mail to Addressee, addressed to:

Mail Stop Patent Application
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

on May 20, 2004
Date



Signature

Staci Immink

Typed name of person signing Certificate
Walters Gardens, Inc.
PO Box 137
Zeeland, MI 49464-0137

Express Mail Label Number: ER 365317113 US

Mail Stop Patent Application
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

May 20, 2004

Mr. Commissioner:

Respectfully submitted and enclosed is the U. S. Plant Patent Application for *Hosta* plant named 'Independence'.

Jeffery A. Westendorp, the inventor, is hereby making written assertion, in addition to paying the small entity plant patent filing fee, that he meets the requirements for small entity status, and has not assigned, nor in under any obligation to assign to any entity that would not meet the requirements of a small entity.

Also enclosed is:

1. Plant Patent Application Transmittal form PTO/SB/19 (2 copies)
2. Fee Transmittal for FY 2004 form PTO/SB/17 (2 copies)
3. Plant Patent Application Declaration form PTO/SB/03 two pages (2 copies)
4. Specification for new plant patent application with one claim and abstract totaling seven pages (2 copies)
5. Two drawings of invention (2 copies each)
6. Check in the amount of \$265 for total payment of small entity Plant filing fee
7. Cover letter claiming small entity status
8. Return postcard
9. Certificate of Express Mail Deposit

Please accept this application for plant patent.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Jeffery A. Westendorp', with a long horizontal flourish extending to the right.

Jeffery A. Westendorp